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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,326	10/09/2003	Richard Boroviak	1652.68525	8303
24978	7590	02/22/2006	EXAMINER [REDACTED]	NGUYEN, CHI Q
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			ART UNIT [REDACTED]	PAPER NUMBER 3635
DATE MAILED: 02/22/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/682,326	BOROVIAK, RICHARD	
	Examiner	Art Unit	
	Chi Q. Nguyen	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 October 2003.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-7 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 09 October 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/9/03, 3/12/04</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because the legal phraseology such as "means" on line 4 should be avoided. Recitations such as "first vertical" on line 5 are confusing since it is unclear if the applicant is referring to the first vertical member or attempting to set forth another member in addition to the one set forth above. Likewise, recitations such "support member" on line are confusing since it is unclear if the applicant is referring to the one of the support members set forth above or attempting to set forth another support member in addition to the one set forth above. Correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested the applicant remove the reference to the method since no method claims have been presented.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "or" on line 1 of claim 1 and in claims 2, 4, 5, and 7 render the claims indefinite because it is unclear which one of the two non-equivalent alternatives the applicant is attempting to positively set forth.

Recitations such as "means to connect" in claims 1 and 7 render the claims indefinite because it is unclear if the applicant is invoking 35 USC 112 sixth paragraph or not. If the applicant intends to invoke 35 USC 112 sixth paragraph, it is suggested that the applicant use "means for" language to avoid confusion.

Recitations such as "to connect a lower end" on line 9 of claim 1 are confusing.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Gibbs (US 6,176,043).

In regard claim 1, Gibbs teaches a frame assembly 10 for making a gate or a door comprising an upper horizontal member 12, a lower horizontal member 12, a first vertical member 14, and a second vertical member 14, one or more cylindrical member 42 provided along the length of each of the upper and lower horizontal members, first connection means (not numbered, but shown in figure 2 as the head of the cylindrical member 42) to connect an upper end of the first vertical member to one end of cylindrical member provided along the length of the upper horizontal member, second connection means (not shown, but comprising the head of the support member 2) to connect lower end of the first vertical member to one end of cylindrical member provided along the length of the lower horizontal member, third connection means (not

shown, but comprising a nut as set forth in column 3, lines 41-58) to connect an upper end of the second vertical member to a second end of the cylindrical member provided along the length of the upper horizontal member, and fourth connection means (not shown, but comprising a nut as set forth in column 3, lines 41-58) to connect a lower end of the second vertical member to a second end of the cylindrical member provided along the length of the lower horizontal member.

In regard claim 2, Gibbs teaches the claimed invention as stated, wherein the cylindrical members 42 provided along the length of each of the upper and lower horizontal members are at least partially threaded and inserted through a longitudinal hole or channel provided along the length of said upper and lower horizontal members.

In regard claim 3, Gibbs teaches the claimed invention as stated, wherein said connection means are nuts as set forth above. However, there are pluralities of threaded rods 24 passed and connected over the cylindrical rods 42 (see figure 4).

In regard claims 4, and 5, Gibbs teaches the claimed invention as stated, wherein further having two or more hinges 28 secured to the first vertical member 14 (figure 1).

In regard claim 6, Gibbs teaches the claimed invention as stated, wherein the lower end of the first and second vertical members 14 are provided with a plurality of holes occupied by the bolts 24 at designated intervals (figure 1).

In regard claim 7, Gibbs teaches a frame assembly comprising upper and lower horizontal members 12 sized to permit them to be cut to fit rough opening width, two vertical members 14 sized to permit them to be cut to fit rough opening height, one or

more cylindrical members 42 provided along the length of each of the upper and lower horizontal members, connection means (not shown but comprising nuts- see above rejections) to connect the ends of the vertical members to the ends of the support members provided along the length of the upper and lower horizontal members and two hinges 28.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Groves, Hadfield, Schindler, Nead, Sherlock, Boroviak, Mascioletti, Stockum, and Hsiung teach frame connection assembly.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (571) 272-6842. The examiner's right fax number is (571) 273-6847.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

2/16/2006
On
CQN


Naoko Slack
Primary Examiner